

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-23418 of 2015 (O&M)

Date of Decision: 16.11.2017

Gurmit Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. R.S. Bains, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Petitioner – Gurmit Singh has filed the present petition under Section 482 Cr.P.C. impugning the order dated 29.04.2015 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Dasuya, whereby the application filed by the petitioner-complainant under Section 173(8) CrPC seeking further investigation in FIR No.134 dated 5.9.2012 under Sections 419, 420, 120-B IPC, P.S. Dasuya was declined. The said FIR was registered at the behest of the petitioner-complainant.

As per the FIR, Gurpreet Kaur, daughter of the petitioner, was married with Harinder Singh @ Harvinder Singh son of Nishan Singh, resident of Village Khojewal, Tehsil and District Kapurthala. She was residing in Canada. Aforesaid Harinder Singh was accused of the murder of Gurpreet Kaur in Canada and therefore, he is wanted by the police in Canada. Accordingly, a look out notice, as a most wanted criminal, was issued against him. Gurpreet Kaur had two children out of this wedlock with Harinder Singh. As on date, their children are staying under the guardianship of the petitioner. The children being coparceners in the family of Harinder Singh were entitled to inherit his property. But in order to divest his children from the property, accused namely Nissan Singh in connivance with other accused fabricated a sale deed dated 12.02.2009 by impersonating Harinder Singh. Harinder Singh had never appeared at the time of execution of the sale deed and therefore, in order to pinpoint the issue, the petitioner had moved the instant application under Section 173(8) CrPC.

Learned counsel for the petitioner has argued that there is no dispute that Harinder Singh was impersonated before the Sub Registrar in order to sign at the requisite places while executing the sale deed. Therefore, it was incumbent upon the police to act against the said accused, which is possible only by way of proper investigation. However, as the person who has impersonated Harinder

Singh has not been identified and arrayed as an accused, further investigation is required in the case.

Learned State counsel submits that the police has conducted investigation in the case but has failed to reach at a conclusion as to who has impersonated Harinder Singh.

Having heard learned counsel for the parties and perusing the impugned order dated 29.04.2015, this Court finds that once the controversy has been narrowed down that someone has impersonated Harinder Singh, therefore, in order to come closer to identification of this person, it is necessary for police to carry out proper investigation in the case. Therefore, the impugned order dated 29.04.2015 passed by Judicial Magistrate Ist Class, Dasuya cannot sustain to the scrutiny of law.

Accordingly, the present petition is allowed. Impugned order dated 29.04.2015 passed by Judicial Magistrate Ist Class, Dasuya is set aside and the trial Court is directed to pass a fresh order after hearing both the parties and considering the rival contentions in accordance with law.

Parties are directed to appear before the trial Court on 08.12.2017.

November 16, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No